

CCASE:
SOL (MSHA) v. SCOTIA COAL
DDATE:
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TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

v.

SCOTIA COAL COMPANY,
RESPONDENT

Civil Penalty Proceedings

Docket No. KENT 80-235
A.O. No. 15-02055-02022 I

Docket No. KENT 80-236
A.O. No. 15-02055-02023 I

Docket No. KENT 80-237
A.O. No. 15-02055-02024 S

Docket No. KENT 80-238
A.O. No. 15-02055-03006 S

Docket No. KENT 80-239
A.O. No. 15-02055-03009 S

Docket No. KENT 80-240
A.O. No. 15-02055-03014 F

Scotia Mine

DECISION AND ORDER

The parties move for approval of a settlement of the captioned civil penalty matters in the amount of \$36,400. The amount originally assessed for the 43 violations charged was \$35,904.

The operator's proposal was made as a lump sum. Thereafter, it was allocated to the violations charged by counsel for the Secretary in a commendably lucid and comprehensive motion to approve settlement. Through the cooperation of the parties, the Department of Justice, and the United States District Court for the Eastern District of Kentucky (Judge Hermansdorfer), the motion was supplemented by the Department of the Interior's investigative report concerning the Scotia disaster as well as the Secretary of Labor's Verified Statement and Scotia's exceptions thereto. This supplemental material was received under seal and is not a part of the public record of these proceedings.

Based on an independent evaluation of all the material submitted and a de novo review of the circumstances relating to each violation, I find the settlement proposed, as amended, is in accord with the purposes and policy of the Act.

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Much has been written and remains to be written as we approach the fifth anniversary of the twin disasters of March 9 and 11, 1976 at the Scotia Mine in Oven Fork, Kentucky. But for the purposes of this motion it suffices to say that justice, however slowly, is being done.

Accordingly, it is ORDERED that the motion to approve settlement be, and hereby is, GRANTED. It is FURTHER ORDERED that the operator pay the amount of the settlement agreed upon, \$36,400, on or before Monday, March 16, 1981 and that subject to payment the captioned matters be DISMISSED.

Joseph B. Kennedy
Administrative Law Judge